



POLICE DEPARTMENT

November 19, 2008

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Robin Hightower  
Tax Registry No. 904149  
42 Precinct  
Disciplinary Case No. 83631/08  
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The above-named member of the Department appeared before me on July 15, 2008, charged with the following:

1. Said Police Officer Robin Hightower, assigned to the 42<sup>nd</sup> Precinct, on or about and between September 16, 2003, and September 16, 2006, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: she obtained insurance for her personal vehicle using an address in [REDACTED] County, and had said vehicle registered to said address when, in fact, she resided in [REDACTED] County. *(As amended)*

PG 203-10 – PAGE 1 – PARA 5 PROHIBITED CONDUCT

2. Said Police Officer Robin Hightower, assigned to the 42<sup>nd</sup> Precinct, while off-duty, on or about July 25, 2007 and August 30, 2007, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: she illegally parked her personal vehicle at a bus stop in [REDACTED] County. *(As amended)*

PG 203-10 – PAGE 1 – PARA 5 PROHIBITED CONDUCT

The Department was represented by Penny Bluford-Garrett, Esq. Department Advocate's Office, and the Respondent was represented by Eric Sanders, Esq.

The Respondent, through her counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

### DECISION

The Respondent is found Not Guilty of Specification No. 1 and Guilty of Specification No. 2.

### SUMMARY OF EVIDENCE PRESENTED

#### The Department's Case

The Department called Sergeant Angelo Sedacca, as its sole witness.

#### Sergeant Angelo Sedacca

Sedacca is an almost ten-year member of the Department assigned to the Internal Affairs Bureau (IAB) Group No. 21. He has been assigned to that unit for two and a half years where he investigates allegations of corruption or misconduct against police personnel whether uniformed or civilian. He testified that he met the Respondent when he was assigned to the 42 Precinct for 11 months. They had a cordial relationship during that time and he never supervised her directly. Sedacca stated that he met the Commanding Officer of the 42 Precinct, Captain DeBellis. He explained that DeBellis became the new commanding officer and he worked for him for approximately one month before being transferred to IAB. He further explained that he may have interacted with him on three occasions and it was strictly work-related interaction.

Sedacca testified that three anonymous letters were sent to the Department and forwarded to the IAB Command Center regarding the Respondent (Department Exhibits (DX) 1-3). Each letter generated its own log number and Sedacca stated that since he worked in the Bronx, he was assigned the Respondent's case to investigate. He explained that the anonymous complainant alleged that the Respondent engaged in rate jumping in that she resided in [REDACTED] County, but provided her insurance carrier with an address in [REDACTED] County and was receiving reduced insurance premiums. The anonymous complainant also alleged that the Respondent parked her personal vehicle in a bus stop in the vicinity of her residence and put her Department-issued placard on the dashboard to avoid being summonsed.

Sedacca stated that he commenced his investigation on the rate jumping allegation. He said that he ascertained that the Respondent had Geico Insurance. When IAB received the allegation, however, the Respondent was insured with Clarendon Insurance for three years. Sedacca said he contacted Clarendon and learned from [REDACTED] that the only address the company had for the Respondent was in [REDACTED]. He then sent a subpoena to [REDACTED]'s attention and received a notarized letter from her in return reiterating that from September 2003-September 2006 when the Respondent was a client of Clarendon Insurance, the only address she used was one on [REDACTED] (DX 4). His investigation further revealed that the only address the Department had on file for the Respondent during this period was on [REDACTED] in [REDACTED].

Sedacca said that once he received all of the paperwork in the case, he called the Respondent in for an Official Department Interview on November 12, 2007. He asked the Respondent about her insurance with Clarendon. Sedacca noted that initially the Respondent stated that she had notified Clarendon that she was living in [REDACTED]. He then asked her if she had informed the insurance company that she had returned to the [REDACTED] and the Respondent stated that she did. Later on during the interview Sedacca stated that he asked the Respondent, "Are you sure that you notified your insurance company that you are residing in the [REDACTED]?" The Respondent replied that she was not sure. Sedacca explained that both in his telephone communication with [REDACTED] and the written letter that she sent later on which is in evidence, from September 16, 2003 through September 16, 2006, the only address the insurance company had on file for the Respondent was the [REDACTED] address in [REDACTED] County (DX 4). He further explained that [REDACTED] stated in her letter that during her three-year tenure, the Respondent had never submitted a change of address to the insurance company. As a result of this information, the allegation that the Respondent was using another address to obtain insurance was substantiated by IAB.

Sedacca stated that the second allegation against the Respondent was that she used her Department placard to park in bus stops near her residence to avoid parking tickets. He stated that to conduct his investigation he did background work. This included ascertaining the Respondent's Department of Motor Vehicle records where he was able to establish that she had a New York State vehicle registered to her and it was a white Pontiac Aztec. He also verified that she did have a placard in her possession and on two separate occasions he was able to observe her vehicle. He personally observed

her vehicle parked in a bus stop in the vicinity of the corner of [REDACTED] and [REDACTED] avenues which is directly across the street from where she resides. Sedacca said he verified the placard by contacting the Integrity Control Officer at the 42 Precinct who confirmed that the placard was in fact assigned to the Respondent beginning in January of 2007 and that it had never been reported as lost or stolen. He also stated that he was able to verify the motor vehicle as a 1997 Pontiac Aztec with a registration number [REDACTED]. Sedacca stated that when he observed the vehicle he actually drove up to it, stepped out of his vehicle and made direct observations to insure that the placard was the one that was assigned to the Respondent. He said that he made these observations on days when he knew the Respondent was off duty. He also stated that he made the observations during the daytime and it was clear weather. Sedacca stated that he also questioned the Respondent during her interview about the illegally parked vehicle. He stated that she admitted to doing it and that she does park her vehicle illegally at the bus stop near her residence quite frequently. Sedacca testified that based on his investigation the allegation that the Respondent illegally parked her vehicle was substantiated. Sedacca said that he questioned the Respondent as to who could have possibly written the anonymous letters and she stated that she had two relatives who were emotionally disturbed persons and that she had problems with them in the past and she guessed that they may have written one or both of the letters.

During cross-examination, Sedacca acknowledged that the Respondent based her supposition on who wrote the letters on simply knowing the allegations. Sedacca admitted that the Respondent was never shown the actual anonymous letters. Sedacca denied that he ever took any pictures of the Respondent's vehicle. Sedacca estimated

that the first observation of the Respondent's vehicle on the bus stop was made on or about July 25 or July 26 of 2007. He stated that he did not take any pictures of the violations nor did he write a summons for her vehicle. He explained that if he wrote a summons it would have compromised his investigation.

With respect to the second observation of the Respondent's vehicle parked at the bus stop, Sedacca estimated that it took place at the end of August of 2007 during the daylight hours. He could not recall if there were other vehicles parked in the bus stop at that time. Sedacca was asked whether he generated a worksheet with respect to that observation and he stated that he did.

Sedacca acknowledged that he had an allegation in his case file which mentioned that the Respondent was lying about her complaint of discrimination against Captain DeBellis. Sedacca was asked what he did with this portion of his case and he explained that since the case was before a federal court, it was not an allegation that his unit would investigate. Sedacca was questioned as to whether he knew that that log was part of his case and he explained that it was given to him as an additional information log generated against his subject officer. He further explained that there was no allegation per se other than what was already taking place in federal court. Sedacca acknowledged that the Respondent had a complaint against DeBellis.

Sedacca acknowledged that he had very limited contact with the Respondent while assigned to the 42 Precinct. He admitted that he worked the midnight tour along with the Respondent. He described their contact, however, as "hello goodbye and nothing more than that." He explained that there were three squads on the midnight tour and that he was a squad supervisor; but from what he could recall, the Respondent did not

work sector patrol because she was assigned to an office assignment. Sedacca admitted that he was assigned to the 42 Precinct for 11 months and even though he worked the same tour with the Respondent, they had very little contact. He stated that he dealt mainly with people who were on patrol.

Sedacca was asked to explain the policy with regard to IAB investigations and when there is a conflict of interest. Sedacca explained that if someone is assigned a case and they know the person involved in the case, i.e., they are good friends with someone or worked with someone directly as a superior or subordinate, the IAB investigator is generally not allowed to investigate allegations of misconduct or corruption against that person. Sedacca denied that while assigned to the 42 Precinct he ever heard of an allegation that the Respondent was the victim of [REDACTED] at the hands of [REDACTED]. He stated that he was assigned to the station house from March of 2004 to January 2005 more or less.

Sedacca stated that while assigned to IAB Group 21 his direct supervisor was a Lieutenant Frye and his Commanding Officer was Deputy Inspector McDermott. Sedacca stated that McDermott did have a part in dealing with this investigation in that he reviewed and supervised it. Sedacca said he did not know whether McDermott knew DeBellis. The only conversation Sedacca said he had with McDermott regarding DeBellis was a log coming in and McDermott stated that the log should be put in the case folder because it mentions his subject officer. He stated that the conversation he had with McDermott regarding putting the log into the case folder did not generate a worksheet. He explained that every conversation he has with his commanding officer does not generate a worksheet.

Sedacca was asked where he learned the term "rate jumping." He explained that he knows it is in the Penal Law. He also knows it from having taken vehicle insurance courses for several years. He knows that his premium is based on where he resides. He further explained that rate jumping is when you utilize a different address from where you actually reside for the benefit of paying a lower insurance premium. Sedacca acknowledged that in none of the three anonymous letters do they mention the term, "rate jumping." He stated that one letter refers to insurance fraud. Sedacca stated that he did not have any training in insurance fraud. When asked whether he was investigating this case as an address change case or an insurance fraud case, he stated that, "one had to do with the other." He stated that he characterized the case in his case folder as insurance fraud. Sedacca explained that at least one allegation in one of the letters stated that the Respondent was involved in insurance injury scams so he had to investigate that allegation. He stated that his investigation found that allegation to be unsubstantiated.

Sedacca acknowledged that during the course of the investigation of the insurance fraud allegation the first person he spoke to at Clarendon National Insurance Company was a customer service representative named Yvonne. He reviewed his folder and noted that the conversation took place on July 27, 2007. He acknowledged that he did not record the conversation with Yvonne. He admitted that the allegation of insurance fraud was a serious allegation. He estimated that the conversation with Yvonne lasted between five and ten minutes. Sedacca stated that he never asked Yvonne whether the Respondent submitted a change of address form with her broker.

Sedacca admitted that during his discussions with the Clarendon Insurance Company representative, she never made an allegation against the Respondent for "rate



jumping.” He acknowledged that the company never alleged that the Respondent was trying to “beat them for their rates.” Sedacca explained that his conversation with the representative was limited to what address the company had on file for the Respondent and whether there was any other address. He further explained that he had a more detailed conversation with [REDACTED] and during that conversation orally and later in writing, [REDACTED] confirmed that there was no address changes made by the Respondent.

Sedacca acknowledged that in July of 2007 he believed that the Respondent had engaged in insurance fraud or “rate jumping.” Sedacca admitted that he did contact the Bronx County District Attorney’s Office to see if they would be willing to bring charges against the Respondent for the difference in the premium. He explained that the Bronx District Attorney’s Office did not want to pursue this matter criminally. He also stated that he did not generate a worksheet for that information. Sedacca stated that he also contacted the Orange County District Attorney’s Office.

Sedacca acknowledged that he did not have any worksheet which stated that Clarendon Insurance Company accused the Respondent of engaging in “rate jumping” by using a specific address with the intent of getting a lower insurance rate. Sedacca explained that he did have conversations with [REDACTED] from the Clarendon Insurance Company and based on their discussions, the Respondent did save a considerable amount of money, but he did not document this on any worksheet. Sedacca acknowledged that during the Respondent’s Official Department Interview she informed him that she moved to Washingtonville because she was having domestic problems with her [REDACTED] or [REDACTED]. He admitted that he was able to confirm this information through IAB records. Sedacca stated that he could not recall whether the Respondent faxed him a

"49" [memorandum] including an Order of Protection or other documents related to the domestic violence matter. He acknowledged that she did state the incidents were of a serious nature regarding the [REDACTED].

When asked how long the domestic abuse continued, Sedacca stated that he could not state because he did not investigate the [REDACTED] issues. Sedacca stated that he did not document on a worksheet the conversations he had with the Respondent outside of the Official Department Interview because she only reiterated what she stated in her interview. Sedacca admitted that the Respondent stated that she fled from her [REDACTED] address to her partner's address in [REDACTED] to flee the death threats of [REDACTED].

Sedacca acknowledged that the Respondent informed him that she changed her license, registration and insurance to the [REDACTED] address of her partner. He acknowledged that when he did a check, the Respondent had changed her documentation from the [REDACTED] address back to her [REDACTED] address. Sedacca explained, however, that by the time the Respondent had changed her address back, it was beyond the 2006 period and her insurance had changed. Sedacca denied that he ever received a bunch of accident reports from the Respondent. He also said that he did not recall receiving a memorandum from the Respondent either. He explained that if he had received such documents, he would have included them in his case file. Sedacca stated that in the letter received from Clarendon Insurance he concluded that the Respondent never submitted an address change. He read one sentence from the letter which stated, "There were no address changes done to the policy." (DX4). Sedacca acknowledged that it is possible that the Respondent submitted an address change but it was just not made.

During re-direct examination, Sedacca acknowledged the colloquy between himself and the Respondent at the Official Department Interview. He admitted that when he initially asked the Respondent whether during her three-year period of insurance coverage with Clarendon whether it was possible that she only used the [REDACTED] address the Respondent initially replied, "Yes." When he asked the same question again, the Respondent repeated, "I don't recall."

During questioning by the Court, Sedacca stated that he relied on Department records derived from the computer systems maintained by the Department as well as New York State Department of Motor Vehicle records to establish the Respondent's address as being in [REDACTED]. When asked whether the Respondent had submitted a change of address form to the Department with the [REDACTED] address Sedacca replied, "I really don't remember." He explained that the Department has her current address.

#### The Respondent's Case

The Respondent testified in her own behalf.

#### The Respondent

The Respondent is a 14-year-member of the Department currently assigned to the 42 Precinct. She explained that her first assignment after being appointed was to the 42 Precinct. She further stated that she has been working midnights on patrol for thirteen years. The Respondent testified that although Sedacca was assigned to another squad, she did have frequent contact with him. She explained that when she responded to various jobs, Sedacca would show up to the scene to supervise her work. She also

explained that when she was assigned to administrative duties in the station house and if he was the desk sergeant, he would sign off on her paper work. She estimated that she had contact with him on at least 20 occasions during a two and a half month period.

The Respondent testified that the first time she learned that there were allegations made against her by an anonymous source was when she was called in for an Official Department Interview in November of 2007. The allegations that were pending against her involved insurance and drug trafficking. The Respondent stated that Sedacca asked her about insurance fraud. She explained that during the period in question she had to change her address because she was involved in a very bad [REDACTED] situation. She informed him that there were domestic incident reports done, that there were Order of Protections done but that the Department did not do anything about it and so she had to leave her residence.

The Respondent stated that Sedacca told her to provide him with documentation about the domestic incident in the form of a memorandum. She stated that within two to three days of the Official Department Interview she typed up a memorandum and supplied the documents to Sedacca by faxing them to the 42 Precinct Station House. She explained that after sending the fax she spoke to Sedacca to see if he received the documents. He informed her that he did, in fact, receive the documents. She explained that since she provided the documents to Sedacca, she had not spoken to him regarding any of the domestic incidents that she provided paperwork about.

The Respondent testified that during the full insurance period from 2003 to 2006, her insurance provider was Clarendon National Insurance Company. She stated that she obtained Clarendon Insurance through a brokerage company. She stated that she

transacted business by paying her premium in full by check to the broker. She further explained that if she needed to make any policy changes she would do so through the brokerage company and not Clarendon Insurance. She testified that her brokerage company was B & V Brokerage Company. The Respondent stated that she no longer uses B & V Brokerage to transact business. She also stated that during her Official Department Interview, Sedacca never asked her how she did her business with Clarendon National Insurance Company. She also stated that Sedacca never asked her whether she had prepared any documents for an address change.

The Respondent stated that she moved to [REDACTED] New York because of the domestic violence situation. She stated that her ex-partner offered her the opportunity to move in with him. She and her son then moved up there until she could find another location to go to. The Respondent said she left her condominium in [REDACTED] to go to [REDACTED].

The Respondent testified that she explained her situation during her Official Department Interview held on November 12, 2007. She said that she relocated to [REDACTED] which was her ex-partner's address in [REDACTED]. According to her partner, [REDACTED], and his wife, Sedacca never contacted them to make any inquiries. Once she moved to [REDACTED] the Respondent stated that she made changes to her insurance, registration and New York State driver's license. She changed them to the [REDACTED] address. The Respondent stated that during the time she was with Clarendon National Insurance, she never received any letters accusing her of rate jumping, failing to pay her premium on time or being engaged in any insurance fraud. The Respondent stated that when she thought it was safe to move back to [REDACTED] she

did. She stated that Sedacca inquired as to whether she changed her address on her documents back to [REDACTED] and she really could not remember. She explained that she was going through so much and handled so much that she did not know if she had made changes at that time.

The Respondent explained that the person she was having the domestic problems with was former New York City Police Officer [REDACTED]. She explained that he would follow her in the car and hang in and outside of buildings where she was going. The Department decided to issue her a radio to make contact in case there was a problem. She also had to always carry her gun with her, even when she met her son at school. She stated that detectives were assigned to the case but they were unable to catch up with [REDACTED]. She explained that she had been a [REDACTED] with [REDACTED] since 2000. She told Sedacca all of this information during her Official Department Interview.

Approximately in 2005 she moved back to [REDACTED]. The Respondent testified that she was informed by detectives that [REDACTED] had relocated to California, so she thought it was safe for her to move back to her apartment. When she moved back to her apartment, she went to take her car to a repair shop and noticed that [REDACTED] was following her. He portrayed himself as having a gun although she did not see one, but he made motions as if he was going to shoot her. She explained that she notified Inspector Guida from her command, and then she moved back to [REDACTED]. The Respondent stated that it was for her safety and the safety of her son. She explained during her travels back and forth between [REDACTED] and [REDACTED] that she was not thinking about her insurance rates and whether or not she changed her address on Department records.

The Respondent addressed the issue of a parking summons received on August 30, 2007. She acknowledged during her Official Department Interview held on November 12, 2007, that Sedacca made inquiries as to whether or not she parked in the bus stop. She admitted that she told Sedacca that she parked in the bus stop. The Respondent said when she parked in the bus stop; she noticed at least 15 other cars parked in the bus stop. She explained that the other vehicles were Police Department vehicles because they had placards in the window. The location was [REDACTED] and [REDACTED] avenues in [REDACTED]. The Respondent stated that the last time she looked at that bus stop was the morning of this proceeding. She explained that she was getting in trouble for something that a lot of other cops do. She noticed eight Police Department vehicles with placards in their window parked at the bus stop. She explained that that location is in the vicinity of the [REDACTED] Precinct Station House. Residents of the [REDACTED] [REDACTED] where she resides complained about parking conditions in the location. She is aware that they have pooled letters and attended board meetings about parking conditions. The Respondent explained that the area is still full of parking condition problems, to date she is unaware of anyone else receiving Charges and Specifications for parking at that bus stop location. The Respondent stated that the [REDACTED] residents have contacted the Police Department about the parking conditions.

The Respondent stated that there are two bus stops along [REDACTED] and [REDACTED] Avenues. One location is about two and a half car lengths from the bus stop, and the other location is in front of the main entrance of the complex. The Respondent described it to be approximately a car length and a half from the bus stop. She estimated that approximately five to six car lengths of space are located in that area. When asked

whether the Respondent reported the 15 police vehicles that she observed parked along the bus stop, the Respondent replied, "No."

With regard to [REDACTED] the Respondent stated that she knows he is no longer a member of the New York City Police Department. She stated that she did not have contact with him and was trying to get away from him so she does not know when he was separated from the Department. The Respondent stated that she did go to the District Attorney to obtain her Order of Protection. She stated that she was never updated as to the outcome of her case. She explained that she had contact with the Assistant District Attorney assigned to her case only once. She had been notified through the Integrity Control Officer at her command about the updates of the case but did not know what happened in the end. The Respondent did acknowledge, however, that she received a permanent Order of Protection against [REDACTED]

During redirect examination, the Respondent stated that when she informed Sedacca that the longest period she spent in [REDACTED] was about a year she meant that she was really going back and forth between [REDACTED] and [REDACTED]. She explained that she had relocated her son who was approximately 11 years old at the time to [REDACTED]. There were times when she did come back down to [REDACTED] during the school year, but she did not take the chance and bring her son with her. She further explained that she wanted his life to seem normal during the school year and that she would leave alone to check on her place in [REDACTED] because she was responsible for the apartment. She stated that once the detective informed her that they could not locate [REDACTED] she felt it was not safe enough for her to go to [REDACTED] If security at her complex had seen [REDACTED] he would leave again. When asked during her Official



Department Interview who could have made allegations against her she mentioned two relatives, an aunt and a cousin, who had psychological problems and who she thought might make allegations of drug trafficking against her. She explained that she was informed of the allegation of insurance fraud, drug trafficking, and the illegal parking at the time of her interview. The Respondent explained that during her Official Department Interview she was never given Department's Exhibit one through three to review [anonymous letters].

Upon questioning by the Court, the Respondent estimated that she started living in [REDACTED] in September of 2002 as the school year began. She stated that she lived between [REDACTED] and [REDACTED] from 2002 until 2005 and the period was longer than a year. She estimated that she spent more time in [REDACTED] than she did in [REDACTED]. When asked whether she filled out any paperwork regarding a change of address with her broker, the Respondent stated that she had a recollection of going into the broker's office to discuss the change of address. She stated that she recalled giving a copy of her license, registration and paperwork to the broker. She explained that he would just have her sign the form and that he would complete the paperwork. She stated that she could not recall actually completing a change of address form herself.

During further cross-examination, the Respondent acknowledged that there was a period when she did receive paperwork from the Clarendon Insurance Company. She stated that she did not review the insurance policy. She noted that she received identification cards which she placed in her wallet but she did not read them. She did admit, however, that as far as she knew the address for her insurance policy was in

Washingtonville. She stated that she never questioned the broker as to whether he processed her change of address paperwork.

### FINDINGS AND ANALYSIS

#### Specification No. 1

The Respondent stands charged with engaging in conduct prejudicial to the good order, efficiency and discipline of the Department in that between September 16, 2003 and September 16, 2006 she obtained insurance for her personal vehicle in Orange County, and had said vehicle registered to said address when, in fact, she resided in [REDACTED] County. The Respondent is found Not Guilty as charged. This Charge and Specification raised several issues. One threshold question was whether the Respondent resided in [REDACTED]. The second question was whether the Respondent resided in [REDACTED] but used a [REDACTED] address. The third issue was whether the Respondent updated her Department records to reflect her place of residence; and the fourth issue was did the Respondent engage in "rate jumping."

The Respondent testified credibly that initially she lived in [REDACTED]. However, at some point, she was involved in a violent domestic relationship with another police officer named [REDACTED]. Following death threats from him, she relocated to her ex-partner's address in [REDACTED] County along with her 11-year old son. The Respondent testified credibly that she feared for her safety. She stated that although there were detectives assigned to the case, the whereabouts of [REDACTED] were not firmly established. The Respondent testified that at one point she was informed by the detectives that [REDACTED] had left the state, she attempted to return to [REDACTED] only to find

that [REDACTED] would follow her vehicle in his vehicle resulting in her return to [REDACTED]

[REDACTED] She testified that during a three-year period, she never changed the residence of her son from [REDACTED] to give him the semblance of stability. She did state, however, that she would try to return to [REDACTED] but she spent more time in [REDACTED] than in [REDACTED]

The Respondent testified credibly that she filed reports with the Police Department concerning the domestic abuse matter [61s]. She stated that the Department was aware that she had an Order of Protection against [REDACTED]. She said that the Department even issued her a radio when off-duty to keep in contact in case of an emergency. The Respondent testified that she was unaware of what happened to [REDACTED]. She was aware that he was separated from the Department, but had no idea when. The investigator assigned to investigate the allegations against the Respondent corroborated her statements because Sedacca stated that he was aware of the Respondent's domestic violence situation as it was contained in the IAB file. Although the Respondent testified that she faxed the paperwork concerning the domestic violence incidents to Sedacca following the Official Department Interview, he testified that he could not recall receiving them. At trial Sedacca could not recall the time period for her domestic violence incidences either. It is evident that the Respondent's domestic situation did not factor into his decision on where her residence was.

This testimony of the Respondent remained unchallenged at this proceeding. There was no evidence presented at this proceeding that the Respondent was ever surveilled to determine where she resided. There was no evidence presented at this proceeding that the retired police officer and his wife, whom the Respondent stated she

lived with in [REDACTED] were ever contacted to confirm her statement and determine how long she lived there. There was no evidence presented at this proceeding that an investigation took place into the location where the Respondent's son attended school. The Respondent testified that he attended school in [REDACTED] for the entire three-year period. Where the Respondent's minor child whom she is raising attends school is some evidence of her residency particularly where there was no evidence presented to the contrary, such that she does not have care, custody and control of her minor child. In essence, the Respondent's claim that she resided in [REDACTED] remained uncontested at this proceeding.

The second question raised by Specification No. 1 was whether the Respondent lived in [REDACTED]. The only proof presented by the Department to support this allegation was the testimony of Sedacca that the address the Respondent had on file with the Department was a [REDACTED] address. Again, there was no other evidence to support this allegation. There was no surveillance of the Respondent, no admission by the Respondent that she lived in [REDACTED] but insured her vehicle in [REDACTED] to get better insurance rates. Thus the Department record standing alone is overcome by the testimonial evidence presented by the Respondent that she left her [REDACTED] residence and resided in [REDACTED] to flee an abusive relationship.

The third issue raised was whether the Respondent updated her Department records to reflect her place of residence during the stated period. It seems clear that she did not. Sedacca stated that the Department records for the period 9/16/03 - 9/16/06 indicated that the Respondent's residence was in [REDACTED]. The Respondent acknowledged that during the stress of the situation, she did not pay attention to

administrative things such as changing her address with the insurance company each time she attempted to return to [REDACTED]. She noted that although she was living in [REDACTED] she could not recall with specificity whether she changed her address with the Department. She noted that her license, registration and insurance had the [REDACTED] address. She also noted that at some point, she changed it back to [REDACTED]. What is critical here is that the Respondent was not charged with failing to update the Department with her current address and as a result, this Court cannot address that issue.

The fourth issue raised by Charge and Specification No. 1, which is tied in with issue no. 2 stated above was "rate jumping." The Specification states in no uncertain terms that the Respondent is charged with registering her vehicle to an address in [REDACTED] County when she, in fact, resided in [REDACTED] County. During the course of Sedacca's investigation, the Respondent's insurance policy does not seem to ever have been requested. It was not offered as evidence at this trial and thus the moment she paid for insurance in [REDACTED] versus [REDACTED] was never established at trial. It was stated that the Respondent paid for insurance in [REDACTED] for three years, but it was never established she did not live there and was not entitled to insure her car there. Although Sedacca testified that the Respondent received a benefit by insuring her car in [REDACTED], there was no substantive evidence presented at this trial to support that assertion. The evidence does establish that the Respondent fled her [REDACTED] residence and went to [REDACTED] to avoid being killed by her ex-boyfriend who was a police officer. In fact, the Respondent testified credibly that she did reside in [REDACTED]

and so did her son. There was no testimony from the Respondent at trial that she registered her vehicle in [REDACTED] to get reduced insurance premiums.

This Court is left with the unchallenged testimony of the Respondent that she did, in fact, reside in [REDACTED]. Given the specific language of the charge which alleges that the Respondent obtained insurance *using* an address in [REDACTED] County when she *resided* in [REDACTED], the Department has failed to meet its burden with respect to this charge. The Respondent testified that she *did* reside in [REDACTED] [REDACTED] County and as such, she did not engage in what would amount to rate jumping (emphasis added).

Accordingly, based on the above, I find the Respondent Not Guilty of Specification No. 1.

#### Specification No. 2

The Respondent stands charged with engaging in conduct prejudicial to the good order, efficiency and discipline of the Department in that she illegally parked her personal vehicle at a bus stop in [REDACTED] County. The Respondent is found Guilty as charged. Evidence adduced at trial established that Sedacca received an anonymous letter at IAB alleging that the Respondent parked her vehicle in bus stops near her residence. Sedacca testified that he searched Department of Motor Vehicle records and determined the make and model of the Respondent's car. He checked Department records also and found her license plate number as well as her restricted parking placard number. He testified that on two occasions, either July 25 or 26, 2007 and the end of August 2007, he personally observed the Respondent's vehicle parked in the bus stop. When confronted at her

Official Department Interview, the Respondent acknowledged that she parked her personal vehicle in bus stops.

At trial, the Respondent also admitted to parking in the bus stop. She raised the issue that other Police Department vehicles were parked in the bus stop. This does not obviate the Respondent's own actions. She acknowledged that parking in the bus stop is misconduct.

Accordingly, I find the Respondent Guilty of Specification No. 2.

### PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974). The Respondent was appointed to the Police Department on August 30, 1993. Information from her personnel record that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

The Respondent has been found Guilty of illegally parking her personal vehicle in the bus stop in Bronx County. The Respondent intimated that her receipt of charges for this misconduct was in retaliation for a suit that she filed against members of the Department. There was no evidence to support this allegation at trial. In fact, the Respondent agreed that parking in a bus stop was misconduct. She also acknowledged that she had been accused of several acts of misconduct during the course of this IAB investigation, including drug trafficking, yet only the insurance allegation and the parking allegation were substantiated against her. This fact would lead one to conclude that

retaliation was not the basis for the Respondent receiving Charges and Specifications in this matter.

Accordingly, I recommend that the Respondent forfeit eight vacation days for this misconduct.

Respectfully submitted,

*Claudia Daniels DePeyster*

Claudia Daniels-DePeyster  
Assistant Deputy Commissioner-Trials

**APPROVED**

*Raymond W. Kelly*  
APR 29 2008  
RAYMOND W. KELLY  
POLICE COMMISSIONER